

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:08-HC-02160-BO

GERALD WAYNE TIMMS,	)	
	)	
Petitioner,	)	
	)	MOTION TO DISMISS
v.	)	OR IN THE ALTERNATIVE FOR
	)	SUMMARY JUDGMENT
TRACY JOHNS, Warden	)	
	)	
Respondent.	)	

The Respondent by and through the United States Attorney for the Eastern District of North Carolina, hereby submits this Motion to Dismiss or in the alternative for Summary Judgment pursuant to Fed.R.Civ.P. 12(b)(1) & (6). A Memorandum of Law is provided in support of this motion.

Respectfully submitted, this 25th day of January, 2010.

George E. B. Holding  
United States Attorney

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon Petitioner's counsel of record by electronically filing the foregoing with the Court on January 25, 2010, using the CM/ECF system.

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